

DETAILED ACTION

This action is responsive to the communication filed on 02/12/2010. Claims 66-67, 71-72, 74, 75, 77, 78, 82, 174, 175, 181, 184-190 and 192 are PENDING in this application.

Claims 66-67, 71, 74-75, 77-78, 82, 174-175 and 181 are allowed.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 66-67, 71-72, 74, 75, 77, 78, 82, 174, 175, 181, 184-190 and 192 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Exemplary claim 66 recites the limitation "other state attributes" and "modeled other state attributes" in lines 18 and 23. There is insufficient antecedent basis for this limitation in the claim. The claim is unclear as to *which* "other state attributes" are being referred to. No where does the claim mention another set of state attributes. Furthermore, line 23 suggests there are *modeled* other state attributes. Are these attributes different? (i.e. modeled and non modeled) Appropriate clarification of the claim is advised by the Examiner.

Claim 192 also recites "one other of the state attributes." Similarly, the claim is unclear as to *which* "other state attributes" are being referred to.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claim 190 recites a “computer readable storage medium.” Examiner suggests Applicant reference what section of the instant specification recites the above medium.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 184, 185, 190 and 192 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

With regard to claims exemplary claim 190 Applicant's the claim is drawn towards “a computer-readable storage medium.” Applicant's instant specification provides no explicit definition for *computer readable storage medium*. Therefore, the broadest reasonable interpretation of this phrase includes non-transitory embodiments, such as memory elements (ROM, RAM) and memory media (CDs) as well as transitory embodiments, such as carrier waves encoded with the software steps. However, transitory forms of signals are not statutory (*In re Nuijten*, 84 USPQ2d 1495). A claim that covers both statutory and non-statutory embodiments embraces subject matter that is improperly directed to non-statutory subject matter. Examiner suggests Applicant amend the instant claim to include a computer readable storage medium including (e.g. memory), specifically stating “a non-transitory storage medium.”

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 184-190 and 192 are rejected under 35 U.S.C. 102(e) as being anticipated by **Jacobsen et al. (US Patent No. 6,198,394 B1)**.

As per claim 186, Jacobsen teaches a system that communicates wirelessly with a mobile computer at a remote location to provide at least a portion of a current state to the remote computer, the current state modeled with the multiple state attributes, the system comprising: a receiver to wirelessly receive sensor data from the mobile computer **(the limitation reciting a receiver to wirelessly receive recites a statement of intended use and therefore is not given patentable weight. Examiner has thus mapped the claim to a receiver (i.e. the leader/medic unit, which receives sensor data from the integrated sensor unit 14, see col. col. 9, lines 8-20);** a processor configured to execute computer-executable instructions for performing a process of: obtaining first values for at least one of the state attributes on the sensor data **(col. 9,**

lines 8-33 and col. 14, lines 37-44); and modeling a second value of a second state attribute based at least in part on the first values, the second values modeled by abstracting a user activity derived from the first values, the first values being from a lower level of abstraction than the second value **(the claim lacking any specifics details as to how abstracting user activity derived from the first values occurs, Jacobsen teaches in col. 14, lines 23-26 and lines 38-49 displaying detailed physiological status information, second values displaying another level of physiological based on the received physiological information from the sensor units of the soldier);** and a transmitter for wirelessly transmitting the at least a portion of the current state from the system to the remote computer, the at least portion of about the current state including the second value indicating the user activity **(the limitation reciting a transmitter for wirelessly transmitting recites a statement of intended use and therefore is not given patentable weight. Examiner has thus show the limitation of at least a transmitter for sending state information to the soldier unit, see col. 14, lines 50-col. 15, lines 5 and col. 9, lines 25-30).**

As per claim 187, Jacobsen teaches wherein the current state is the current state of a remote user of the mobile computer **(col. 14, lines 37-49).**

As per claim 188, Jacobsen teaches wherein the abstracted user activity is an activity of the remote user **(col. 14, lines 37-49).**

As per claim 189, Jacobsen teaches wherein the remote computer is a thin client computer that is wearable by the remote user and has an output device for presenting the

information about the current state of the remote user received from the system (**col. 3, lines 35-50**).

As per claim 190, Jacobsen teaches receiving data an environment from fixed sensors coupled to the first computer; obtaining environment values for at least one of the state attributes based on the data received from the fixed sensors (**where Examiner has interpreted fixed to mean sensors affixed to the soldiers, col. 8, lines 45-64**); obtaining environment values for at least one of the state attributes based on the data received form the fixed sensors (**col. 9, lines 7-33**); and transmitting the at least a portion of the current state from the system to the mobile computer, the at least a portion of the current state including at least one of the environment values (**col. 14, lines 23-26 and lines 38-49**).

As per claim 192, Jacobsen teaches a computer-readable storage medium further comprising receiving physiological data for a user of the mobile computer from other remote sensors operating at the remote location (**col. 9, lines 25-40**); obtaining first values for at least one other of the state attributes based on the received physiological data (**col. 9, lines 8-33**); and automatically modeling an activity of the user for a second state attribute, the derived based at least in part from the first values, wherein the at least a portion of the current state comprises the second state attribute and transmitting the at least a portion of the current state comprises transmitting the modeled activity of the user from the system to the mobile computer (**col. 14, lines 23-26 and lines 38-49**).

As per claims 184 and 185, Jacobsen teaches further comprising abstracting the transient physiological condition of exercising and of talking (**col. 6, lines 25-29, col. 10, lines 38-44 and col. 2, lines 50 -55**).

CONCLUSION

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joiya Cloud whose telephone number is 571-270-1146. The examiner can normally be reached Monday to Friday from on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3922. Information

regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMC

May 20, 2010

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2444